

REMARKS

This paper is responsive to the Final Office Action dated July 12, 2010 wherein claims 1, 2, 5-15, 17-29 and 31-38 were rejected, claims 3-4, 16 and 30 were withdrawn from consideration as being drawn to nonelected group. Claims 5-15, 17-29 and 31-38 were amended. Claims 1, 2, 5-15, 17-29 and 31-38 remain pending in this application. In view of the preceding amendments and the following remarks, Applicant requests further examination and reconsideration of the present patent application.

Applicant respectfully notes that the Declaration filed on 06/20/08 under 37 CFR 1.131 has been held sufficient to overcome the Meltzer reference. Applicant respectfully notes that in rejection of claims 7, 19 and 34, the Office Action refers to sections of Meltzer. Applicant respectfully submits that since the Meltzer reference was overcome, Meltzer may not be applied in the rejection. Further, in rejections of claims 9, 21 and 36, the Office Action cites Boyter including a section on "How do Vulnerability Detection Systems work?" Applicant respectfully submits that the Applicant was unable to find such a reference in Boyter.

35 USC §101

Applicant respectfully notes the rejection of claims 15, and 17-28 under 35 USC §101 because as being directed towards non-statutory subject matter. Applicant has amended claim 15 to further clarify that the claims are directed to statutory subject matter. Further, Applicant submits that logic encoded in a program stored in a computer readable storage media, for example, memory discs, ROMs, CDs, DVDs, memory sticks, floppy drives and the like is well known in the art. Those skilled in the art will readily recognize that such computer readable storage media are involved in installation of such programs, for example, installing a program from a DVD to a memory disk. For example, paragraph [0212] of Applicant's Specification mentions the installation requirement that is well recognized in the art to include the various well known computer readable storage media. Accordingly, Applicant respectfully requests the withdrawal of the rejection of claims 15 and 17-28 under 35 USC §101.

35 USC §103

Applicant respectfully traverses the rejection of claims 1, 2, 5-15, 17-29 and 31-38 under

35 USC §103(a) as being unpatentable over Boyter et al. (U.S. Patent Application 2003/0212779, hereinafter "Boyter") in view of McClure et al. (U.S. Patent Application 2003/0195861, hereinafter "McClure") and in view of Bunker et al. (U.S. Patent Application 2003/0056116, hereinafter "Bunker"), because the Boyter, McClure and Bunker do not, either alone or in combination, teach or suggest all the elements of the claimed invention.

Claims 1, 15 and 29

Applicant respectfully submits that Boyter, McClure and Bunker do not teach or disclose the claim 1 recitations of:

1. A system for real-time vulnerability assessment of a host/device, said system comprising:

an agent running on the host/device, said agent comprising:

an executable agent module configured to track the status of interfaces and ports on the interfaces of the host/device and to store the information as information entries,

said executable agent module configured to compare the entries to determine a change in the status of interfaces and/or of ports on the interfaces of the host/device,

a remote destination server comprising:

an executable server module configured to receive the information entries communicated by the executable agent module.

said executable server module configured to store the received information entries, wherein the information entries indicate the state of each of the ports on each of the active interfaces of the host/device,

said executable server module configured to compare the received information entries to determine the change in the status of interfaces and ports on the interfaces of the host/device, and

said executable server module configured to run vulnerability assessment tests on the host/device in the event of a change in the status of interface/ports.

According to the Examiner, Boyter teaches a system for real time vulnerability assessment as taught by the instant invention. Applicant respectfully disagrees, and submits that Boyter, neither alone, nor in combination with McClure and/or Bunker discloses an agent running on the host/device, as taught by the instant invention.

Specifically, claim 1 recites an agent running on the host/device (target being for which vulnerability is being assessed) the agent comprising an executable agent module. Nowhere does Boyter, McClure and Bunker, alone or in combination, teach or suggest an agent comprising an executable agent module running on the host/device. Further, none of Boyter, McClure and Bunker, either individually, or in combination disclose an agent running on the host/device that tracks the status of active interfaces or of ports, as recited by claim 1. Furthermore, none of Boyter, McClure and Bunker, either individually, or in combination disclose a destination server that receives the information regarding status of active interfaces and ports from an agent resident on the host/target, as recited by claim 1.

Applicant respectfully submits that the agent resident/ running on the host/target is among an important distinction recited by the instant claims. The agent helps achieve real time vulnerability assessment. In stark contrast, the Boyter teaches a system that does not include an agent running on a host/device. For example, Boyter illustrates that the vulnerability assessment system is distinct from the host network (Boyter, paragraph [0022]). As will be appreciated by those skilled in the art, Boyter's approach which is an agent-less system, and the instant invention that utilizes an agent running on the host/device are fundamentally different. Neither McClure nor Bunker overcome this deficiency of Boyter in teaching or even suggesting the recitations of the instant claim 1 (and correspondingly claims 15 and 29). In view of the foregoing, Applicant respectfully submits that Boyter, McClure and Bunker, taken alone or in combination do not render the claim 1 obvious. Accordingly, claim 1 is patentable under 35 USC §103(a) over Boyter in view of McClure and further in view of Bunker.

Claims 15 and 29 are believed to be allowable for similar reasons. Claims 2, 5-14 that depend from independent claim 1, claims 17-28 that depend from independent claim 15 and claims 31-38 that depend from independent claim 29 are believed to be allowable as being dependent on allowable claims. Accordingly, Applicant respectfully requests the withdrawal of the rejection of claims 1, 2, 5-15, 17-29 and 31-38 under 35 USC §103(a).

Application No. 10/820,790
Reply to Office Action of July 12, 2010

Summary

For the reasons set out above, Applicant respectfully submits that the application is in condition for allowance. Favorable reconsideration and allowance of the application are, therefore, respectfully requested. If the Examiner believes that anything further is necessary to place the application in better condition for allowance, the Examiner is kindly asked to contact Applicant's undersigned representative at the telephone number below.

Respectfully submitted,

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